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10/044,904	01/15/2002	Anna Heden	000515-236	2850

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Ronald L. Grudziecki  
BURNS, DQANE, SWECKER & MATHIS, L.L.P.  
P.O. Box 1404  
Alexandria, VA 22313-1404

EXAMINER

REICHLE, KARIN M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/044,904

Applicant(s)

HEDEN ET AL.

Examiner

Karin M. Reichle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 January 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☒ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. In the amendment to page 1, "priority...119" should be --benefit-- and "2000" should be --2001--.

### ***Specification***

### ***Drawings***

2. The drawings are objected to because the text in Figure 6 should be avoided, i.e. numerals should be used to denote the structure and the numerals and the text should be described in the textual description of the invention. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claims 3-6 and 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Description*

4. The abstract of the disclosure is objected to because the abstract is too long, i.e. should be in the range of between 50 and 150 words in length. The abstract should include only one paragraph. Legal terminology, i.e. "comprising", "said", should be avoided. Correction is required. See MPEP § 608.01(b).

5. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: the abstract, the first sentence of the second paragraph.

6. The disclosure is objected to because of the following informalities: Antecedent basis for the terminology now used in the claims as amended should be provided, see MPEP 608.01. For example, the claims no longer use the terminology "producer's bonding face" and "user's bonding face" but such terminology is still used in the description rather than the terminology now used in the claims. On page 4, line 3, "Patent Specification" should be deleted. On page 5, line 1, "DISCLOSURE" should be --SUMMARY--. Claims 7 and 13 refer to a bond breaking force with regard to a strip 40 mm in width yet the test method for determining such force set forth on page 12, line 18-page 14, line 23 does not appear to use a strip which is 40mm in width, i.e. appears to use a strip only 25 mm in width. Is one of the widths referred to wrong? If not, where is the test method for the strip of 40 mm in width? Are Fabriflex and Pegas set forth on lines 6 and 10 of page 17 trademarks? If so they should be properly designated as such, i.e. set forth in all capital letters or with a trademark symbol.

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Appropriate correction is required.

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: antecedent basis for the relative strength of the bonds as claimed in claim 5 should be set forth.

### *Claim Objections*

8. Claims 1-13 are objected to because of the following informalities: in claim 1, line 3, “completely or partly to” should be --at least partly--. On line 7, before “opposite”, insert --adapted to be--. On lines 11 and 25, change “one or several” to --at least one--. On line 15, change “transversal” to --transverse--. On line 18, before “prior”, insert --and wherein--. On line 21, after “article”, insert --in the storage condition--. In claims 2-13, line 1, “A” should be --The--. In claim 2, line 4, “the”(second) should be deleted. In claim 3, lines 1-2, “in the...of the article” should be deleted. On line 3, “the” (first) should be --a-- and “the”(second) should be --each--. On line 4, before “the”(first), --in each of said tape fasteners-- should be inserted. On line 5, “which” and “in that” should be deleted. On line 5, before “when”, --,-- should be inserted. In claim 4, lines 3-4, “forms...material” should be deleted. In claim 5, line 2, “the”(last) should be --each--. On line 3, “said” should be --each--. Also it appears line 3 is missing a word or words, e.g. a bond of the hook and loop fastener? In claims 7-8 and 13, “the...bond”(each) should be --each bond--. In claim 10, line 1, before “the”, insert --each of--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

9. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, is the crotch portion on line 6 and that on line 4, one and the same? In claim 2, a positive structural antecedent basis for "said lateral portions" should be set forth, i.e. "lateral" should be --opposite side--. In claim 3, is the first end part and the other fold part one and the same, i.e. how many parts at a minimum is the first fold part bonded to? In claim 6, is the outermost end part and the second end part one and the same, i.e. how many end parts are there? In claims 7 and 13, is Applicant claiming each of the mechanical fasteners in the folded condition being a joined together tape fastener strip of a width of 40 mm?

***Claim Language Interpretation***

10. "Mechanical tape fastener systems" and "mechanical tape fasteners" are defined as set forth on page 1, lines 26 et seq. "Breakable bond" or bonds which are breakable are defined as set forth on page 6, lines 20-23. It is noted that as so defined such bond would include a bond which requires a supplementary material but such material is not designed solely for the storage condition of the tape fastener.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 7-8, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimizu et al.

Claims 1, 8, and 12: See section 10 supra, Figures 1-3, abstract, line 1, the first end portion is 6, the second end portion is 7, the crotch portion is 8, the inner layer is 2, see col. 2, lines 36-37, the outer layer is 3, see col. 2, line 37, and the absorbent body is 4, see col. 2, line 38. The mechanical tape fasteners are 21, the fastening parts are disclosed at col. 4, lines 30-34 and col. 1, lines 19-22, the first bonding face is the upper surface of the first end part 24, the second bonding face is the lower surface of the second end part 26, the first fold part is 26, the other fold part is 24 and the breakable bond is 31, see col. 3, lines 13-36 and col. 4, lines 10-13. It is noted that the claims do not require the first bonding face be directly attached to the inner surface of the inner layer.

With regard to claim 11, see col. 2, line 64-col. 3, line 1, i.e. the tape is not elastic. With regard to claims 7 and 13, see discussion of these claims in paragraph 9 supra. As best understood, claims 7, 11 and 13 recite properties, capabilities and functions of the structure claimed in claim 1. Since the Shimizu includes all the structure claimed in claim 1, there is sufficient factual evidence for one to conclude that the properties, capabilities and functions of such claimed structure are also inherent in the same structure of Shimizu. See MPEP 2112.01.

13. Claims 1, 3-4, 6-7, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Landvogt '591,

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Claims 1 and 12: See section 10 supra, Figures 1-2, col. 1, lines 17-19, the first end portion is part of 50, the second end portion is part of 48, the crotch portion is between the end portions, the inner layer is 26, see col. 4, line 61, the outer layer is 30, see col. 4, line 62, and the absorbent body is 28, see col. 4, lines 62-63. The mechanical tape fasteners are 60, the fastening parts are 64, the first bonding face is the upper surface of the first end part 74, the second bonding face is the upper surface of the second end part 75, the first fold part is 75, the other fold part is either 74 or 65 or both and the breakable bond is 63 or 63 and 65, see col. 9, lines 4-38 and 50-60, e.g. the "transport configuration" is the storage condition, and col. 10, lines 33-37, i.e. "can" also infers "cannot". Also see col. 8, line 65-col. 9, line 3. It is noted that the claims do not require the first bonding face be directly attached to the inner surface of the inner layer. It is noted that the claims do not require that the first fold part be directly joined to the at least one other fold part. It is noted that the release tape 65 is not provided solely for storage but also is provided to provide a Y-bond and does not require a release agent coating, i.e. is a "breakable bond" as defined.

With regard to claim 11, see col. 2, line 64-col. 3, line 1, i.e. the tape is not elastic. With regard to claims 7 and 13, see discussion of these claims in paragraph 9 supra. As best understood, claims 7, 11 and 13 recite properties, capabilities and functions of the structure claimed in claim 1. Since the Landvogt reference includes all the structure claimed in claim 1, there is sufficient factual evidence for one to conclude that the properties, capabilities and functions of such claimed structure are also inherent in the same structure of Landvogt. See MPEP 2112.01.



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With regard to claims 3 and 4, see portions of Landvogt cited above and the length of 74 versus 75, i.e. when folded along the line between 74 and 75 the second end part 75 will be located laterally interior of the first end part. Again it is noted that the claims do not require the breakable bond directly connects the first fold part to the first end part.

With regard to claim 6, the outer most end part 61 is coated with a pressure sensitive adhesive which provides a adhesion force, see col. 10, lines 52-53. It is noted that the terminology "weak" is considered relative. Therefore, the adhesion force of Landvogt is also considered "weak" absent specific dimensions of adhesive force being claimed. It is also noted that the claim does not set forth adhesion with regard to what. The adhesive 63 on the outermost end part adheres to itself to form the grip tab.

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al '030 in view of Roessler et al '073.

Applicant claims the tape fasteners arranged in their entirety on the inner layer in the storage condition and outermost end edges of the tape fasteners in the storage condition being located interiorly of the side edges of the lateral portions. See portions of Shimizu cited supra, especially Figure 2 and col. 4, lines 10-13 thereof. Figure 2 shows the edge at or near the edge of the outer layer but wrapping the inner layer. However note Figures 7 and 9 of Roessler et al, i.e. interchangeability of the wrapping configuration as shown by Shimizu with one in which the tape fastener is arranged in its entirety on the inner layer, i.e. would be arranged entirely on the inner layer in the storage condition and an outermost edge of the fastener in the storage condition would be located interiorly of the side edges of the side portions. To make the tape fastener arrangement of Shimizu the claimed arrangement instead would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Roessler et al. See again col. 4, lines 10-13 of Shimizu.

16. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimizu et al '030 in view of Alberg et al '631.

Applicant claims the mechanical tape fasteners comprising at least one elastic part disposed between the first and second end parts which Shimizu does not teach. However see Figure 4 and Figure 17 as well as col. 9, line 50-59 and col. 10, lines 19-59 of Alberg et al, i.e. interchangeability of a tape tab backing which is inelastic throughout for one which is elastic in

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the center portion but not at the end parts. To make the inelastic throughout tape tab of Shimizu et al a tape tab with an elastic center portion as claimed would be obvious to one of ordinary skill in the art in view of the interchangeability as taught by Alberg et al '631.

17. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Landvogt in view of Scripps '065 and Goulait '384.

Applicant claims the tape fasteners having a width between 10 and 30 mm which Landvogt does not teach. See Scripps, '065, col. 10, lines 7-23, and Goulait '384, col. 10, lines 43-55, i.e. the width of the tape of an adhesive/ hook and loop fastener is either 12.5 mm or 25 mm. To make the tape of the adhesive/hook and loop fastener of Landvogt a width between 10 and 30 mm in width as taught by Scripps and Goulait would be obvious. See In re Siebentritt, 54 CCPA 1083(two equivalents are interchangeable for their desired function), i.e. substitution of structure which functions as tape for an adhesive/hook and loop fastener for another.

### ***Allowable Subject Matter***

18. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims as well as overcoming all the informalities therein.

### ***Conclusion***

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied references teach various bonds in the storage position.

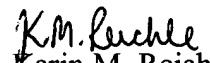
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20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617.

The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

  
Karin M. Reichle  
Primary Examiner  
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KMR